

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14188 of 2004
with
Special Civil Applicatin No. 15119 of 2004
with
Special Civil Application No. 15043 of 2004
with
Special Civil Application No. 15044 of 2004
with
Special Civil Application No. 15681 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

FLEX ENGINEERING LTD & Others.

Versus

STATE OF GUJARAT & Others.

Appearance:

1. Special Civil Application No. 14188 of 2004
SINGHI & CO for Petitioner No. 1
Mr. AD Oza, GP for Respondent No. 1-2
RULE SERVED BY DS for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 18/12/2004

ORAL COMMON JUDGEMENT

In all these petitions, notices are issued for final disposal. With the consent of the parties, the matters are taken up for Final Hearing today. As common question of law and fact arise, the present Special Civil Applications are disposed of by this common order.

2. In all these petitions, the respective petitioners have challenged the orders dated 24.8.2004 passed by the Deputy Collector, Stamp Duty Valuation, Gandhinagar, by which on the basis of some audit objection the petitioners are directed to pay the stamp duties which are mentioned in the orders dated 24.8.2004 with regard to the documents in question, i.e., Debenture Trust Deeds. Number of contentions are raised in the present Special Civil Applications with regard to jurisdiction and even applicability of the notification. It is also submitted by the learned counsel appearing on behalf of the petitioners that even otherwise the impugned orders dated 24.8.2004 are passed without giving an opportunity and without issuing any show cause notice and they are in breach of principles of natural justice.

3. Shri AD Oza, learned Government Pleader appears on behalf of the respondents. No affidavit-in-reply is filed on behalf of the respondents. Even otherwise the factum of not giving an opportunity to the petitioners before passing the impugned orders dated 24.8.2004 is not disputed. Under the circumstances, without going into the larger question with regard to jurisdiction and applicability of the notification or not, and without considering anything on merits the impugned orders dated 24.8.2004 are required to be quashed and set aside only on the ground that the impugned orders are passed without giving any opportunity to the petitioners and without issuing any show cause notice. When the orders are passed having civil consequences by which the petitioners are directed to pay the stamp duty which is for substantial amount in each of the case, at least the petitioners are required to be served with show cause notices and are required given an opportunity of being heard.

4. Under the circumstances, the impugned orders dated 24.8.2004 passed in each of the petitions are hereby quashed and set aside. It will be open for the concerned respondent/s to issue appropriate show cause notice in accordance with law. It will be open for the concerned petitioners to either file reply to the said

show cause notice and/or even to file petitions challenging the show cause notices, if so advised questioning the jurisdiction of the respondents. As stated above, this Court has not expressed anything on merits of the case on either side and the impugned orders are set aside only on the ground that the same are passed without giving any opportunity to the petitioners and without issuing any show cause notice. The petitioners are at liberty to take all contentions which are available to them under the law and as and when fresh show cause notices are issued.

5. For the reasons stated above, the impugned orders dated 24.8.2004 are required to be quashed and set aside. Rule is made absolute to the aforesaid extent in each of the matter with no order as to costs.

[M.R. Shah, J.]

rmr.